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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/053,456      | 10/26/2001  | Charles E. Schinner  | 10014488 -1         | 3561             |

22879 7590 12/28/2006  
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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

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| EXAMINER |
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MILIA, MARK R

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2625

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 12/28/2006 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/053,456

Applicant(s)

SCHINNER, CHARLES E.

Examiner

Mark R. Milia

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 15-22, 24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-22, 24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/24/06 has been entered. Currently, claims 1-13, 15-22, 24, and 26-27 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 7, and 16 have been considered but are moot in view of the current amendments to the claims and therefore a new ground(s) of rejection will be made.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-13, 15-22, 24, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5619738 to Petruchik et al. in view of Ikeda et al. (US 6297874).

Regarding claim 1, Petruchik discloses an apparatus for capturing digital images, comprising: an image sensor including a plurality of image capture elements, each of the image capture elements configured to capture image data (see Fig. 7 and column 6 lines 4-41) an input element for communicating a print size to the apparatus (see Figs. 3, 4, and 6, column 4 line 38-column 5 line 17, column 5 lines 62-63, and column 6 lines 11-20), means for matching a selected print format with an aspect ratio corresponding to the print size (see Fig. 7, column 3 line 56-column 4 line 13, column 4 line 38-column 5 line 17, and column 6 lines 11-20 and 30-41) and cropping the image to attain an image that matches the aspect ratio corresponding to the print size selected by a user before the image is developed (see column 2 lines 46-53 and column 6 lines 11-20 and 30-35).

Petruchik does not disclose expressly means for matching image capture elements corresponding to fewer than all of the plurality of image capture elements with an aspect ratio corresponding to the print size.

Ikeda discloses means for matching image capture elements corresponding to fewer than all of the plurality of image capture elements with an aspect ratio corresponding to the print size (see Fig. 1, column 1 lines 31-33, column 2 lines 43-45, column 6 lines 55-64, column 7 lines 25-61, and column 8 lines 35-38, reference develops only that page of the image which matches the selected print size and

therefore only uses the image capture elements that correspond to the selected print size).

Regarding claim 7, Petruchik discloses a method for adapting a print size to a captured image in a digital image capture device, the method comprising the steps of: providing an image sensor including a plurality of image capture elements (see Fig. 7 and column 6 lines 4-41), matching a selected print format with an aspect ratio corresponding to a selected print size (see Fig. 7, column 3 line 56-column 4 line 13, column 4 line 38-column 5 line 17, and column 6 lines 11-20 and 30-41) and cropping the image to attain an image that matches the aspect ratio corresponding to the print size selected by a user before the image is developed (see column 2 lines 46-53 and column 6 lines 11-20 and 30-35), and presenting image sensor data corresponding to the selected print size to a user of the image capture device (see Figs. 3-5).

Petruchik does not disclose expressly matching fewer than all of the plurality of image capture elements of the image sensor with an aspect ratio corresponding to a selected print size.

Ikeda discloses matching fewer than all of the plurality of image capture elements of the image sensor with an aspect ratio corresponding to a selected print size (see Fig. 1, column 1 lines 31-33, column 2 lines 43-45, column 6 lines 55-64, column 7 lines 25-61, and column 8 lines 35-38, reference develops only that page of the image which matches the selected print size and therefore only uses the image capture elements that correspond to the selected print size) and presenting image sensor data

corresponding to the selected print size to a user of the image capture device (see Figs. 1, 32, and 34-40 and column 12 lines 7-8 and 20-26).

Regarding claim 16, Petruchik discloses a computer readable medium having a program for adapting a print size to a captured image in a digital image capture device, the program including logic for performing the steps of: matching a selected print format with an aspect ratio corresponding to a selected print size (see Fig. 7, column 3 line 56-column 4 line 13, column 4 line 38-column 5 line 17, and column 6 lines 11-20 and 30-41) and cropping the image to attain an image that matches the aspect ratio corresponding to the print size selected by a user before the image is developed (see column 2 lines 46-53 and column 6 lines 11-20 and 30-35), and presenting image sensor data corresponding to the selected print size to a user of the image capture device (see Figs. 3-5).

Petruchik does not disclose expressly matching fewer than all of the plurality of image capture elements of the image sensor with an aspect ratio corresponding to a selected print size.

Ikeda discloses matching fewer than all of the plurality of image capture elements of the image sensor with an aspect ratio corresponding to a selected print size (see Fig. 1, column 1 lines 31-33, column 2 lines 43-45, column 6 lines 55-64, column 7 lines 25-61, and column 8 lines 35-38, reference develops only that page of the image which matches the selected print size and therefore only uses the image capture elements that correspond to the selected print size) and presenting image sensor data

corresponding to the selected print size to a user of the image capture device (see Figs. 1, 32, and 34-40 and column 12 lines 7-8 and 20-26).

Petruchik & Ikeda are combinable because they are from the same field of endeavor, processing and development of images captures by an image capture device.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the digital image capture device that utilizes image capture elements corresponding to fewer than all of the plurality of image capture elements corresponding to the print size, as described by Ikeda, with the system of Petruchik.

The suggestion/motivation for doing so would have been to improve accuracy and simplicity and reduce delay from the time of exposure to the time of final development (see column 1 lines 56-62 of Petruchik).

Therefore, it would have been obvious to combine Ikeda with Petruchik to obtain the invention as specified in claims 1, 7, and 16.

Regarding claim 2, Ikeda further discloses wherein each of the plurality of image capture elements is used to capture the image data and only a portion of the image data is presented to a user (see column 11 lines 1-8 and column 12 lines 20-26).

Regarding claim 3, Ikeda further discloses wherein a portion of the plurality of image capture elements is used to capture the image data and only a portion of the image data is presented to a user (see column 11 lines 1-8 and column 12 lines 20-26, only the portion of the image corresponding to the print size is printed out).

Regarding claim 4, Ikeda further discloses wherein the print size aspect ratio corresponds to the aspect ratio of the image sensor (see column 6 lines 59-62).

Regarding claim 5, Ikeda further discloses means for presenting an image capture template to a user of the apparatus (see Fig. 9).

Regarding claim 6, Ikeda further discloses wherein the image capture template provides a visual reference to the plurality of image capture elements that correspond to the selected print size (see column 2 lines 24-31).

Regarding claims 8 and 17, Ikeda further discloses capturing image sensor data using all of the image capture elements (see Fig. 8, column 1 lines 31-33 and column 7 lines 39-61) and presenting image data from only those image capture elements corresponding to the selected print size to a user of the image capture device (see Fig. 8, column 1 lines 31-33 and column 7 lines 39-61).

Regarding claims 9 and 18, Ikeda further discloses the step of capturing image sensor data using only those image capture elements corresponding to the selected print size (see Fig. 1, column 1 lines 31-33, column 2 lines 43-45, column 6 lines 55-64, column 7 lines 25-61, and column 8 lines 35-38, reference develops only that page of the image which matches the selected print size and therefore only uses the image capture elements that correspond to the selected print size).

Regarding claims 10 and 19, Ikeda further discloses printing the image sensor data corresponding to the selected print size (see Fig. 1, column 8 lines 2-9, and column 9 lines 1-7).



Regarding claims 11 and 20, Ikeda further discloses presenting the image sensor data to a user of the image capture device (see Figs. 8 and 9) and superimposing an image capture template over the image sensor data, the image capture template providing a visual reference on a display (see Fig. 9).

Regarding claims 12 and 21, Ikeda further discloses wherein the visual reference corresponds to the image sensor data (see column 2 lines 24-31).

Regarding claims 13 and 22, Ikeda further discloses wherein the image capture template is one of fixed and variable (see Figs. 8 and 10).

Regarding claim 15, Ikeda further discloses wherein a plurality of image capture templates are made available to a user of the image capture device (see Figs. 8 and 10).

Regarding claims 24, 26, and 27, Petruchik further discloses presenting a user interface to enable entry of the print size by the user before image capture (see Fig. 3, column 2 lines 13-53, column 4 line 38-column 5 line 17, and column 6 lines 11-20).

### ***Conclusion***

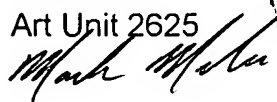
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Milia whose telephone number is (571) 272-7408. The examiner can normally be reached M-F 8:00am-4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler M. Lamb can be reached at (571) 272-7406. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark R. Milia  
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Art Unit 2625



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